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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,061	08/12/2002	Eduardo Casais	875.0105.U1 (US)	8518
29683 7590 02/23/2007 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE SHELTON, CT 06484-6212			EXAMINER KARIKARI, KWASI	
			ART UNIT	PAPER NUMBER
			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/088,061

Applicant(s)

CASAI, EDUARDO

Examiner

Kwasi Karikari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 03/12/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

### **Claim Objection**

2. Claim 1-25 are objected to because of the following informalities:

a. Incursion of reference numerals in claims 1-25 are not required under U.S. patent law.

b. Applicant uses "A system" in claims 2-23. The Examiner suggests using "The system" as making reference to the previously cited claimed limitations "A system" in the independent claims. Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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**Claims 1- 8, 11, 14, 15 and 18-25 are rejected under U.S.C. 102(e) as being anticipated by Birgerson (U.S 6,138,009), (hereinafter Birgerson)**

Regarding **claims 1, 24 and 25**, Birgerson discloses a system (see Fig. 1) for supplying data in electronic form (= download of software to generic mobile station, see col. 12, lines 5-40) comprising a mobile terminal (cellular 10), a supplying terminal (= base station 20), and a wireless connection (connection 1 & 2, see Fig. 1), the supplying terminal being able to supply at least part of the electronic data to the mobile terminal by communication over the wireless connection, characterised in that the supplying terminal is able to obtain electronic data from at least one data server (= software database 5 & 6, see Fig. 1) by communication over a wireless network (=global data communication network 30, see col. 7, line 9- col. 8, line 22).

Regarding **claim 2**, as recited in claim 1, Birgerson disclose a system in which there is a plurality of data servers to supply electronic data to the supplying terminals (= software database 5 & 6, see Fig. 1).

Regarding **claim 3**, as recited in claim 1, Birgerson disclose a system in which there supplying terminal acts as a proxy between the mobile terminal and the data server (see base station 20).

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Regarding **claim 4**, as recited in claim 1, Birgenson disclose a system in which there transfer of electronic data between the at least one data server and the supplying terminal is carried out securely (= Pin, see col.7, line 29-41; and col. 9, line 67- col. 10, line 6).

Regarding **claim 5**, as recited in claim 1, Birgenson disclose a system in which there transfer of electronic data between the supplying terminal and the mobile terminal is carried out securely (see col.7, line 29-41; and col. 9, line 67- col. 10, line 6).

Regarding **claim 6**, as recited in claim 1, Birgenson disclose a system in which there which the supplying terminal is a vending machine which supplies electronic data in exchange for a monetary payment (= Banking and financial, see col.7, line 29-41; and col. 9, line 67- col. 10, line 6).

Regarding **claim 7**, as recited in claim 6, Birgenson disclose a system in which the supplying terminal and mobile terminal exchange information necessary to enable payment to be made for the electronic data supplied to the mobile terminal (= Banking and financial, see col.7, line 29-41; and col. 9, line 67- col. 10, line 6).

Regarding **claim 8**, as recited in claim 1, Birgenson disclose a system in which the mobile terminal and the supplying terminal communicate by the Wireless Application Protocol (WAP) (communication between cellular station 10 and base station 20,

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see Fig. 1).

Regarding **claim 11**, as recited in claim 1, Birgenson disclose a system in which the wireless network is provided by a cellular network (= GSM, see col. 41-60).

Regarding **claim 14**, as recited in claim 1, Birgenson disclose a system in which wireless network obtains the data from a second network which is a wired network (internet 30, and the intranet, see col. 7, lines 9-41 and Fig. 1; i.e., the internet and intranet are, inherently, wireless and wired connected).

Regarding **claim 15**, as recited in claim 1, Birgenson disclose a system in which the wireless network obtains the data from the Internet via a gateway (castanet, see col. 8, lines 48-67).

Regarding **claim 18**, as recited in claim 1, Birgenson disclose a system in which the electronic data obtained from at least one data server is determined by a person controlling operation of the supplying terminal (bank and finance services, see col. 9, line 67- col. 10, line 5).

Regarding **claim 19**, as recited in claim 18, Birgenson disclose a system in which the configuration of electronic data within the supplying terminal is determined by the person controlling operation of the supplying terminal (bank and finance services, see col. 9, line 67- col. 10, line 5).

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Regarding **claim 20**, as recited in claim 1, Birgenson disclose a system in which the price at Which the electronic data is sold is determined by a person controlling supply of the electronic data to mobile terminals (bank and finance services, see col. 9, line 67- col. 10, line 5).

Regarding **claim 21**, as recited in claim 1, Birgenson disclose a system in which the mobile terminal is a mobile telephone (cellular station 10, see Fig. 1).

Regarding **claim 22**, as recited in claim 1, Birgenson disclose a system in which the mobile terminal is selected from a group consisting of game playing devices, portable audio players, portable video players, personal digital assistants and smart telephones (cellular station 10, see col. 9, lines 17-35).

Regarding **claim 23**, as recited in claim 1, Birgenson disclose a system in which the data in electronic form is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal (castanet server 12 is arranged in the base station 20; and the pushing techniques of JAVA without user interaction, see col. 9, lines 17-45).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 9, 10, 12, 13, 16 and 17 are rejected under U.S.C. 103(a) as being unpatentable over Birgerson (U.S 6,138,009), (hereinafter Birgerson) in view of Raith (U.S 6,493,550), (hereinafter Raith).**

Regarding **claim 9**, as recited in claim 1, Birgerson fails to disclose a system in which the wireless network and the wireless connection operate using different carrier frequencies.

However, Raith teaches a system in which the wireless network and the wireless connection operate using different carrier frequencies (= GSM and Bluetooth, see col. 4, lines ).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgerson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

Regarding **claim 10**, as recited in claim 9, Birgerson fails to disclose a system in which the wireless network uses a carrier frequency which is lower than the carrier frequency of the wireless connection.

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However, Raith teaches a system in which the wireless network uses a carrier frequency which is lower than the carrier frequency of the wireless connection (= GSM and Bluetooth, see col. 4, lines ).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgenson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

Regarding **claim 12**, as recited in claim 1, Birgenson fails to disclose a system in which the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell.

However, Raith teaches a system in which the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell (= private and short-ranged communication; Bluetooth, see col. 6, lines 48-67).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgenson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

Regarding **claim 13**, as recited in claim 1, Birgenson fails to disclose a system in which the wireless connection is a Low Power Radio Frequency (LPRF) connection.

However, Raith teaches a system in which the wireless connection is a Low Power Radio Frequency (LPRF) connection (= private and short-ranged communication; Bluetooth, see col. 6, lines 48-67).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgenson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

Regarding **claim 16**, as recited in claim 1, Birgenson fails to disclose a system in which the data transmitted the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by each data server .

However, Raith teaches a system in which the data transmitted the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server (down link signaling, see col. 5, line 14- col. 6, line 16).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgenson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

Regarding **claim 17**, as recited in claim 1, Birgenson fails to disclose a system in which a user of the mobile terminal determines the part of the data which is transmitted.

However, Raith teaches a system in which a user of the mobile terminal determines the part of the data which is transmitted. (uplink signaling, see col. 5, line 14- col. 6, line 16).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Raith with the system of Birgenson for the benefit of achieving a system that can detect private system and allocate control channels that are associated therewith for incoming pages (see Raith; col. 2, line 55- col. 3, line 3).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kwasi Karikari  
Patent Examiner.

01/30/07.



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PRIMARY EXAMINER